

LEGISLATIVE AUDIT DIVISION

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TO: Legislative Audit Committee Members
FROM: Jim Pellegrini, Deputy Legislative Auditor, Performance Audits
DATE: November 2004
RE: Follow-up to Performance Audit: Montana Sexual or Violent Offender Registration Program, Department of Justice (03P-05)

INTRODUCTION

The Legislative Audit Committee requested a performance audit of the Sexual or Violent Offender Registration Program, which is administered by the Division of Criminal Investigation in the Department of Justice (department). In June 2003, we presented to the committee our audit report, which included four recommendations to the department for enhancing the program.

This memorandum summarizes information on the implementation status of each audit recommendation.

Overview

The department has implemented two of the four recommendations, and is implementing the other two recommendations. According to the department, one recommendation should be implemented by April 2005. Another recommendation would require the 2005 Legislature to revise sexual or violent offender registration statutes.

BACKGROUND

The Montana Legislature enacted sexual offender registration in 1989, and expanded registration to include persons convicted of certain violent offenses in 1995. The 1997 Legislature moved the registry from the Department of Corrections to the Department of Justice. Since 1997, department efforts focused on developing and implementing an effective registry for sexual or violent offenders. Significant department accomplishments included:

- Assuming a leadership role to ensure the state has an effective sexual or violent offender registry.
- Integrating the registry with other criminal justice systems for law enforcement purposes.
- Creating a website to provide registry information to the public.

- Notifying criminal justice agencies when registrants did not verify residence addresses.

Interviews with department personnel in September 2004 indicated the department continues to examine the registration program and seek changes to increase assurance all sexual offenders register, including:

- Clarifying reporting requirements for sexual or violent offenders released from prison.
- Increasing the division's role in enforcing and prosecuting sexual or violent offenders who do not comply with registration requirements.

SUMMARY OF AUDIT FINDINGS AND IMPLEMENTATION STATUS

Follow-up examination included interviewing department management and staff and reviewing department documentation. The following sections summarize prior audit findings and recommendations, and report the department's activities to implement the recommendations.

For two recommendations that are being implemented, the department initiated changes during our follow-up audit work. One recommendation requires legislative changes to statute. We will monitor implementation status of Recommendations #2 and #4 after the 2005 Legislative Session and report back to the committee.

Improving the Process for Verifying Registrant Addresses

The department sends each registered offender an address verification letter, which registrants must return to the division. However, program personnel had difficulty identifying non-compliant registrants because the management information did not have a process for flagging offenders who did not return the verification letters.

Prior Recommendation #1

We recommend the Department of Justice modify its management information system to flag offenders whose address verification letters are not returned to the Sexual or Violent Offender Registry program.

Recommendation Status: Implemented

The department created a system report that allows program personnel to run a monthly report of registrants whose verification letters are 30 days past due. The program sends a monthly report to registering agencies for further investigation and prosecution. Local law enforcement and county attorneys are responsible for prosecuting non-compliance with registration requirements.

Enhancing Registration Enforcement

Routine queries of the department's Criminal Justice Information Network (CJIN), the state repository for criminal justice information, did not automatically check the registry. Consequently, non-compliant offenders were less likely to be identified by law enforcement during routine law enforcement contacts. Additionally, law enforcement officers stated registration information would enhance officer safety.

Prior Recommendation #2

We recommend the Department of Justice modify the standard CJIN query to automatically check registry information and provide information on the status of all registered offenders.

Recommendation Status: Being Implemented

The department had not implemented this recommendation when we started our follow-up review. However, the department subsequently stated it will implement this recommendation as part of a CJIN modification project, which will be completed by May 2005.

Ensuring Sexual Offender Registrants are Entered in the National Sexual Offender Registry

Some registered sexual offenders were not registered in the National Sexual Offender Registry, because the department did not have FBI numbers for some individuals. FBI numbers are required for entry into the national registry.

Prior Recommendation #3

We recommend the Department of Justice develop procedures to assure all sexual offenders registered in Montana are entered into the National Sexual Offender Registry.

Implementation Status: Implemented

The department is working to obtain information needed to register Montana sexual offenders who are not entered into the national registry. The department recently developed a plan, similar to procedures used by other states, to address this issue. Additionally, when sexual offenders from other states move to Montana, the department plans to contact states where offenders were convicted to obtain information necessary to enter those offenders into the national registry. Department personnel also stated the FBI has identified the problem and is working with states to address the problem. Since this is a larger issue that includes the FBI and other states, the department's ability to pursue full resolution is limited.

Clarification of Registration Responsibilities

Registration statutes did not reflect current practices regarding registration responsibilities. In practice, local law enforcement agencies have assumed responsibility for registering all sexual or violent offenders. However, statute states the Department of Corrections is responsible for registering offenders sentenced to probation with no incarceration, and local law enforcement is responsible for registering sexual or violent offenders released from prison or who enter a county.

Prior Recommendation #4

We recommend the Department of Justice seek legislation to clarify that local law enforcement agencies are solely responsible for registering sexual or violent offenders who are not incarcerated.

Implementation Status: Being Implemented

The department did not seek legislation to address this recommendation from the 2003 Legislature as recommended. Department management stated it is drafting and will introduce legislation to the 2005 Legislature to address this recommendation. Review of Legislative Branch documentation verified that a draft bill (LC0318) includes changes to implement this recommendation.